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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,648	07/09/2003	Michael C. Runkel	20327-72935	9305

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EXAMINER

BEAULIEU, YONEL

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/615,648

Applicant(s)

RUNKEL ET AL.

Examiner

Yonel Beaulieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-119 is/are pending in the application.
- 4a) Of the above claim(s) 39-119 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-119 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/03/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

Claims 39 – 119 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected subject matter, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/10/04.

Claim Objections

Claims 33 and 35 is objected to because of the following informalities: it is suggested to change change “Cod” (claim 33, line 2) to - -Code- - and “Globil” (claim 35, line 2) to - -Global- -. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5, 8, 9, 13 – 16, 18, 20 – 28, 30, 31, 34, 35, and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by France et al. (US 5,928,306).

Regarding claims 1, 2, 4, 5, 8, 9, 13 – 16, 18, 20 – 28, 30, 31, 34, 35, and 38, France et al. teaches a method of operating a surveying rover (associated with item 260 in fig. 1; see also figs. 2 and 6), comprising receiving GPS correction data from a

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packet/PCS digital wireless network (note item 250; col. 1: 26 – 41 at least), the receiving step from the network using a time division multiple access transmission (col. 3: 26 – 39; col. 5: 31 – 41; figs. 3B and 5), receiving GPS correction data (col. 3: 8 – 25; fig. 1; note 131/133), wherein the data is formatted for an output Internet Protocol serial transmission (col. 2: 2 – 21 and 36 - 44 at least).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 6, 7, 10 - 12, 17, 19, 29, 32, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over France et al. (US 5,928,306).

Regarding claims 3, 6, 10, 12, 17, 19, 29, 32, 33, 36, and 37, France et al. teaches all of the limitations except for explicitly using code division multiple access and frequency division multiple access transmission. However, using code and frequency division multiple access transmission would have been obvious to one of ordinary skill in the art at the time of the invention as being well settled in the art (see for example U.S. Patent 6,324,473 B1 to Eschenbach).

Regarding claims 7, 11, 33, and 37, France teaches all of the limitations except for associating the CDMA with 1XRTT transmission.

As discussed above, France teaches all of the limitations except for associating the CDMA with 1XRTT transmission. However, Applicant's association of the CDMA with 1XRTT transmission has not been shown to solve any stated problem in the art not is it for a particular purpose. It appears France et al.'s teaching is at least fully functionally equivalent to the claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yonel Beaulieu whose telephone number is (703) 305-4072. The examiner can normally be reached on M-R, from 0900-1600.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas BLACK can be reached on (703) 305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Y. BEAULIEU
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YONEL BEAULIEU
PRIMARY EXAMINER